



Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

4/4

DAC

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: Gary W. Lampkins

Application No.: 10/046,164

Art Unit: 3728

Filed: 1/16/2002

Examiner: STashick Anthony

Title: Stay Tie II

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

RECEIVED

FEB 09 2006

OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Advisory Action Reply (identify type of reply):

has been filed previously on _____.
 is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.
 has been paid previously on _____.
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

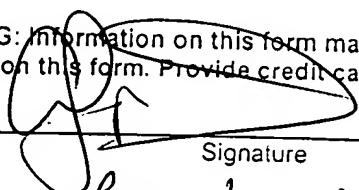
10/04/06, 164

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.


 Signature

Cary L. Lumpkins

Typed or printed name

2/07/06

Date

1501 Aragona Blvd

Address

Registration Number, if applicable

301 203-2774

Telephone Number

Ft. Wash. M.D. 20744

Address

 Enclosures: Fee Payment

 Reply

 Terminal Disclaimer Form

 Additional sheets containing statements establishing unintentional delay

 Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:



Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

02/07/06

Date


 Signature

Cary L. Lumpkins

Typed or printed name of person signing certificate

10/046,194



RECEIVED

FEB 09 2006

OFFICE OF PETITIONS

RESPONSE TO EXAMINER'S ADVISORY ACTION

1. Examiner rejects applicant's claims, as being anticipated by Lavielle 4,514,882 and specifically states in his office action August 15, 2003 that " Claim 1 is rejected under 35 U.S.C 102(b) as being anticipated by Lavielle 4,514,882. Lavielle "882 discloses all the limitations of the claim including the following: flexible wrapping retaining members as part of a flexible extension 1,2; the members being made of plastics (see col. 2, lines 20-23); the device being semi attached to the upper of a shoe (shoe lace)." The examiner cites the following in his assessment of applicants subject matter as being anticipated by said prior art which specifically discloses that the device comprises of" two rectangular members 1 and 2, of substantially the same dimensions made of a relatively rigid material such as injection molded plastic material, for example the two members 1 and 2 are linked by a flexible linking member 3 integral with members 1 and 2, being of reduced thickness and width, for example." It is clear that the rigidness of the two rectangular members possibly being made of a plastic is at the essence of the purpose and scope of Lavielle's art which is to retain shoelaces. However the examiner in rejecting the applicants subject matter as being anticipated by Lavielle

10,046,164

erroneously supports a claim that the evolution of the rigidness of said prior art is flexibility, which is a contradiction in purpose of rigid material, composition, method and scope and use of rigid retaining members. Moreover, the patentability of applicant's disclosure is the effective use of flexible wrapping retaining members on each side of a knot to maintain the integrity of said knot and bow, while by virtue of design, incorporating the ability of adjustment to the thickness or lack thereof of the shoelace material, which is lacking in Laveille. Moreover, the examiner erred in his findings that the applicant's subject matter discloses the device being semi attached to the upper of a shoe by way or "through shoelaces". As stated in the Description of the Preferred Embodiments of the application, the device is semi attached to the upper of the shoe by inserting the oval extension 13 through a shoelace hole with the device then being inserted through oval extension 13 to form a noose around the surrounding shoe material, and not as the examiner stated as being attached to the shoelace itself. However not practical, attaching a retaining device to the shoelaces would have been obvious to a person having ordinary skill in the art to which said subject matter pertains.

2. Claim 1 was also rejected by examiner under 35 U.S.C. 102(b) as being

10,046,164

anticipated by Anderson 4,949,437. Anderson discloses a collection of members made up of rigid materials much the same as Lavielle with a different design, which by limitation of its design and functions, can not logically incorporate flexibility as the next step in its composition evolution, nor would flexibility in the rigid tab member 12 of Anderson's art be obvious or anticipated since the rigid aspect of said member serves a specific purpose to the effectiveness of the art. Obvious would be a material and design that injects more rigidness for less slippage of the shoestring material. Consequently, the wrapping retaining member with flexibility at the core of the design of the applicant's subject matter, discloses a design use of compression of the shoestring material on both sides of the knot to maintain the integrity of the bow by allowing through its flexible properties, the wrapping retaining member to adjust to any thickness or lack thereof of shoelace material, which will disallow slippage, as opposed to the suppression art of Lavielle and Anderson which displays the use of rigid members to claim obtainment of the same end without the ability of adjustment. Further, the examiner errs in deducting again that the applicants subject matter discloses attachment to the shoelaces as oppose to the unique design of utilizing the shoelace hole of the shoe as its method of attachment. The applicant

10,046,164

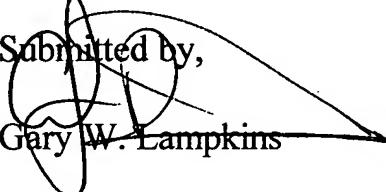
contends that the shoelace is not a part of the shoe but a separate aid of use.

3. Claim 1 was also rejected by examiner under U.S.C. 102(b) as being anticipated by Blum 4,553,293. Blum discloses a device whose design is interactive by insertion of the shoelace through eyelet's 22 and 24 whereby the shoelace is then tied and bowed in the traditional manner, with the top portion folding down over the formed knot to secure said bow, which in theory will maintain the integrity of the knot. Blum's art by virtue of its limitations of design, can not account for the absence of adjustment, which gives way to new art. Further the examiner again incorrectly assesses the applicants subject matter to be attached to the shoelaces as opposed to being attached by way of the oval extension member 13 of the device being inserted through the shoelace hole of the shoe as specified in said applicant's Description of the Preferred Embodiments.

4. Claim 2 was also rejected by the examiner as being unpatentable over any one of the references applied to claim 1 above in view of Pittman 722,891. Pittman as with all of the other references applied to applicant's subject matter, discloses art limitations of a lack of flexibility to allow adjustment within its design. The applicant's subject matter is patentable over all references applied, including Pittman

10,046,164

because of the flexible adjusting composition and design that allows for changing circumstances of the shoelaces. Further in all of the references cited by examiner the obvious evolution of cited art would be the strengthening of said devices through the advent of stronger, more rigid materials in the composition of its active retaining members. Flexibility of retaining members, the oval extension 13 and function and design coupled with semi and or permanent attachment to a shoe as disclosed in the applicant's subject matter, clearly discloses new art which is patentable over all references cited by the examiner in this matter.

Submitted by,

Gary W. Lampkins